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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,157	12/08/2000	Barry Lynn	98308	6224

7590 06/28/2005

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EXAMINER

VIG, NARESH

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/733,157	Applicant(s) LYNN, BARRY	
	Examiner Naresh Vig	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is in reference to response received on 20 April 2005 to the office action mailed on 19 October 2004. Amendment of claims is acknowledged. There 4 claims, claims 1 – 4 pending for examination.

Response to Arguments

Applicant's arguments are for amended claims which have been responded to in response to claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over NewHomes.com hereinafter known as NewHomes in view of Metropolitan Regional

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Information Systems, Inc. hereinafter known as MRIS and HomeGain.com hereinafter known as HomeGain.

Regarding claims 1 and 3, NewHomes teaches system and method for electronic interaction between new home builders and real estate professionals (intended users) (e.g. purchaser, information seeker) for facilitating an exchange of selected information for new homes. NewHomes teaches:

Transmitting and receiving selected information for new homes between new home builders and purchasers over the internet.

NewHomes does not teach intended user to be real estate professionals. Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is a business choice to elect whether to restrict system to subscribers or make it open to public. However, MRIS teaches system and method for advertising real estate for sale restricted to subscribing real estate agents and brokers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify NewHomes as taught by MRIS to charge users for using the information

NewHomes in view of MRIS teaches device onto which means is installed [MRIS page 5, 21, 23].

NewHomes in view of MRIS does not teach selected information consists essentially of home buyer information whereby real estate broker transmits said

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selected information and privately registers a client or homebuyer with a new home builder to ensure real estate professional receives a commission. However, NewHome teaches cooperative realtors (realtors share commissions) [NewHome, page 8]. HomeGain teaches system and method of registering a client (seller who needs services of a real estate agent), registering a real estate agent (service provider who provides services to client), and, HomeGain serves as a referral agent who refers client to real estate agent for a fee. It is a business choice to elect what type of clientele to service. One of ordinary skill in the art can use HomeGain for registering a client (buyer who wants to purchase new home), register a real estate agent (representative of a builder), and, use HomeGain as a referral agent to who refers clients to real estate agents for a fee.

Therefore, NewHome in view of MRIS and HomeGain teaches selected information consists information of home buyer (client) [page 3, 15 – 21] whereby real estate broker (HomeGain) transmits said selected information and privately registers a client (client has to register with HomeGain) with a new home builder (representative of builder) to ensure real estate professional receives a commission.

Regarding claims 2 and 4, NewHomes in view of MRIS teaches computer program for transmitting information between new homebuilders and real estate professionals (intended users) [NewHomes page 32 – 33, MRIS page 3 – 6].

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

1. Good et al. US Patent 6,314,040

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naresh Vig
Examiner
Art Unit 3629

June 23, 2005